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PATENTS
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re

Claude RANOUX

Patent No. 5,084,004
(Serial No. 07/449,942)

BOX DAC

#79



Expired January 28, 1996
(Filed December 29, 1989)
Issued January 28, 1992

PROCESS FOR INTRA-UTERINE
FERTILIZATION IN MAMMALS AND
DEVICE FOR IMPLEMENTATION THEREOF

**PETITION FOR RECONSIDERATION OF
DECISION UNDER 37 C.F.R. §1.378(e)**

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

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OFFICE OF PETITIONS

It is respectfully requested that the decision dismissing petitioner's original petition to accept unavoidably delayed payment of maintenance fees be reconsidered, that the original petition considered together with the additional materials included herewith be granted, that delayed payment be accepted, and that the patent be reinstated.

The present petition is responsive to the decision of the Special Programs Office of June 1, 2000 In re Patent No. 5,084,004 (hereinafter "the decision"). The decision answered petitioner's original petition of February 18, 2000 under 37 CFR 1.378(b) to accept delayed payment of the maintenance fees of the above-identified patent (hereinafter "the original petition"). The decision dismissed the original petition.

08/02/2000 SLUANG1 00000082 5084004

01 FC:122

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This petition incorporates the original petition by

08/02/2000 SLUANG1 00000082 5084004 To avoid confusion, the exhibits included with the

01 FC:122

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present petition are identified by letter beginning with "H", following Exhibits A-G included with the original petition.

The decision of the Special Programs Office identified a number of requirements which must be met by the present petition for reconsideration. These matters are now addressed by the petitioner.

The decision states:

Petitioner asserts that the computerized docketing and tracking system utilized by Young & Thompson was a reasonably prudent and reliable system. However, the petition does not present any details of the system upon which an evaluation of the is assertion can be based. Any renewal of this petition must provide a factual showing of the adequacy an reliability of this system, such as by way of affidavit from one knowledgeable of the system.

In this regard, petitioner includes herewith and incorporates herein by reference the declaration of Ms. Angela Thumann, attached as Exhibit H. Ms. Thumann's declaration includes details of the two maintenance fee docketing systems used by Young & Thompson, as well as a statement that, to her knowledge, the Young & Thompson system has never failed to alert a client of the impending due date of a maintenance fee when such client engaged Young & Thompson for such docketing services at the time such fee became due.

The decision also states that the originally filed petition fails "to establish that the instant patent was actually entered into this system." To remedy this point, the included declaration of Angela Thumann includes reproductions of docket entries for the instant patent. However, as stated in the original petition, the docket entries for such patent

both in the computer-based system and the manual entry system were notated prior to the due date of the first maintenance fee for the instant patent to indicate that Young & Thompson was not to provide maintenance fee services for such patent. This was performed at the instruction of Cabinet Bonnet Thirion, as described in the original petition and as evidenced by Exhibit C attached to the original petition.

In this regard, the decision states that the source of the statement appearing in the correspondence reproduced as Exhibit C as to the discontinuance of docketing services is not identified. The decision further states that the identified "statement speaks to discontinuing docketing of cases, and does not speak to the tracking of cases already docketed."

To address this point, petitioner includes herewith the declaration of Herbert Lewitter of Cabinet Bonnet Thirion, attached hereto as Exhibit I and incorporated herein by reference. Mr. Lewitter's declaration refers to documents included in Exhibits J and K, each of which is attached hereto and incorporated herein by reference. As Mr. Lewitter states in paragraph 4 of his declaration, the document reproduced as Exhibit C in the originally filed petition represents a letter of December 28, 1993 originally sent via airmail from Young & Thompson to Cabinet Bonnet Thirion requesting confirmation that Young & Thompson was no longer to perform maintenance fee docketing services for patents obtained on Cabinet Bonnet Thirion's behalf. Cabinet Bonnet Thirion responded on February 5, 1994 with a telefax transmission of the December 23 letter from Young & Thompson with the added typewritten

statement confirming this and identifying Acumass as the entity to be identified on the fee address indication form. Young & Thompson then sent a telefax on March 8, 1994 to Cabinet Bonnet Thirion requesting the complete address of Acumass, to which Cabinet Bonnet Thirion responded on the same day by telefaxing back Young & Thompson's letter with the requested information typed thereon.

Paragraph 5 of Mr. Lewitter's declaration further states that it was the understanding of Cabinet Bonnet Thirion that Young & Thompson was not only not responsible for adding new docket entries into Young & Thompson's maintenance fee reminder system for patents issued subsequent to the above-identified correspondence, but further that Young & Thompson was no longer to provide maintenance fee services with respect to any patents obtained by Young & Thompson on Cabinet Bonnet Thirion's behalf.

This understanding is entirely reasonable in light of the arrangement which Cabinet Bonnet Thirion had in place with Acumass. As stated in Ms. Thumann's declaration, Young & Thompson provides maintenance fee docketing services only for those clients for whom Young & Thompson also provides reminder and payment services for maintenance fees. As stated in Mr. Lewitter's declaration and supported by the supplemental documentary evidence referred to therein appearing in Exhibits J and K incorporated herein by reference, Cabinet Bonnet Thirion was using Acumass to docket, issue reminders for, and submit payment for patent maintenance fees. This made Young & Thompson's services redundant, and therefore

Young & Thompson's maintenance fee services were no longer necessary. Since Young & Thompson's maintenance fee services were no longer desired by Cabinet Bonnet Thirion, it was incumbent upon Young & Thompson not only to refrain from entering new data for Cabinet Bonnet Thirion patents into the maintenance fee docketing system, but also to notate existing data relating to Cabinet Bonnet Thirion patents in the database to eliminate the possibility of duplicate payments for a maintenance fee from both Acumass and Young & Thompson.

The decision states that the record is not clear how both Young & Thompson and Cabinet Bonnet Thirion separately and together ensured that all patents that were under Young & Thompson's control were satisfactorily transferred to the control of Acumass. Petitioner refers to Exhibits H and I, the declarations of Angela Thumann and Herbert Lewitter, respectively. Such declarations make clear the process used by Young & Thompson and Cabinet Bonnet Thirion to ensure the transition.

As noted in Ms. Thumann's declaration, Young & Thompson ensured that a Fee Address change form was sent to the United States Patent and Trademark Office for each patent obtained on behalf of Cabinet Bonnet Thirion approximately three months prior to a maintenance fee payment coming due. The docket log entries included with Ms. Thumann's declaration together with Exhibit D of the original petition (reproduction of filed Fee Address form) show that Young & Thompson took the necessary steps with respect to the instant patent. Furthermore, the copy of the printout of the United States Patent and

Patent No. 5,084,004

Trademark Office maintenance fee database attached hereto as Exhibit L and incorporated herein by reference indicates that on March 27, 1995, ten days after the Fee Address Form was filed with the United States Patent and Trademark Office, the payor number was updated to identify Computer Packages Inc., Acumass' U.S. agent.

The present petition also includes as Exhibit M the declaration of Mr. Olivier Barloy of Acumass, which is incorporated herein by reference. Both Mr. Lewitter's and Mr. Barloy's declarations state that Acumass had access to Cabinet Bonnet Thirion's computer database, which Acumass used to create entries in its own computer docketing system. Acumass passed the pertinent information on to its U.S. agent, Computer Packages Annuity Service, who was identified in the Patent and Trademark Office's records as the recipient of maintenance fee reminder notices for the instant patent.

It was reasonably prudent to expect that the combination of identification of Acumass' U.S. agent Computer Packages Annuity Service as the recipient of reminder notices from the United States Patent and Trademark Office together with providing Acumass with access to the *Ordipat* computer database used by Cabinet Bonnet Thirion would ensure that all maintenance fee payments would be addressed. However, the present, highly unusual fact pattern created a situation in which the instant patent was not entered into Cabinet Bonnet Thirion's database because Young & Thompson did not send the original patent with a maintenance fee-identifying cover letter and additionally an error in the Cabinet Bonnet Thirion

annuities department resulted in the reissue application information replacing the original patent data, instead of supplementing such data. Because the information was not entered in Cabinet Bonnet Thirion's database, the instant patent was unknown to either Acumass or Computer Packages Annuity Service.

In summary, the evidence provided in the original petition, included herein by reference, and the present petition make clear that all parties involved in the present matter on behalf of the owner of the instant patent acted in accordance with the standard of due care of a reasonably prudent person with respect to maintenance fees therefor, and the failure to pay such maintenance fees was unavoidable.

Because of a misunderstanding [redaction] prior to issuance of the instant patent, an improper amendment suggested by the Examiner in charge of the application was agreed to by Young & Thompson. See, original petition, page 2, lines 13-21; page 8, lines 3-112; and Declaration of Robert J. Patch, attached to the original petition as Exhibit A. A subsequent, timely filed amendment under Rule 312 to remedy the erroneous amendment was not acted upon by the U.S. Patent and Trademark Office until over four months after filing of same. See, original petition, page 2, line 22-page 3, line 3; and Declaration of Robert J. Patch, attached to the original petition as Exhibit A. Because of these circumstances, it was known prior to the issuance of the instant patent that it was *flawed*, and that it would be necessary to immediately file an

application for reissue of the same. See, original petition, page 3, lines 4-13; page 8, lines 3-11.

Because of the highly unusual set of circumstances resulting in the patent being issued in what was known to be a flawed state, Young & Thompson sent neither the original letters patent nor the cover letter indicating the due dates of maintenance fees which usually accompanies such to Cabinet Bonnet Thirion, but instead sent the patent back to the U.S. Patent and Trademark Office with the reissue application. See, original petition page 3, lines 4-13; page 8, lines 3-11; and stamped receipt card indicating that original letters patent was received by the U.S. Patent and Trademark Office with the reissue application, reproduced as Exhibit B in the original petition. At the time the instant patent issued, Cabinet Bonnet Thirion engaged the services of Young & Thompson for maintenance fees, which services included docketing, issuing reminder notices, and payment of maintenance fees. See, Exhibit I, declaration of Herbert Lewitter. Young & Thompson entered the instant patent into its docketing system. See, Exhibit H, Declaration of Angela Thumann.

As noted in the second paragraph following paragraph 14 of Mr. Lewitter's declaration, information pertaining to the reissue application was received by the annuities department of Cabinet Bonnet Thirion. However, an error occurred when such information was used to produce an entry which replaced the information pertaining to U.S. Serial No. 449,942 which had issued as U.S. Patent 5,084,004, instead of supplementing the original entries with that information. As a

result of this error, the computer database to which Acumass had access did not contain the appropriate entry for the 5,084,004 patent.

This error corresponds closely to the error which underlay the fact pattern in Laerdal Medical Corp. v. Ambu Inc., 34 USPQ2D 1140, 1143 (D. Md. 1995) and California Medical Products, Inc. v. Tecnol Medical Products, Inc., 921 F. Supp. 1219, 1257-1258 (D. Del. 1995). Both of these cases address a single set of facts in which information relating to a reissue application was erroneously used to calculate maintenance fee due dates instead of the issue date of the underlying patent for which reissue was sought. California Medical at 1257-1258; Laerdal Medical Corp. at 1143. In each case, the district upheld the decision of the United States Patent and Trademark Office to accept the delayed payment of maintenance fees as unavoidable and reinstate the patent. California Medical at 1260; Laerdal Medical Corp. at 1144.

But for this docketing error by an employee of the annuities department of Cabinet Bonnet Thirion to *replace* instead of *update* the information, the computer records of Cabinet Bonnet Thirion to which Acumass had access would include information including the issue date of the instant patent, and the maintenance fee would have been timely paid.

Furthermore, prior to the due date of the first maintenance fee payment for the instant patent, Cabinet Bonnet Thirion instructed Young & Thompson that Cabinet Bonnet Thirion would no longer be using Young & Thompson's maintenance fee services, as these services were the same as those

provided by Acumass for Cabinet Bonnet Thirion. See, declaration of Herbert Lewitter, attached hereto as Exhibit I; original petition page 3, lines 14-27 and Exhibits identified therein. Cabinet Bonnet Thirion instructed Young & Thompson to inform the U.S. Patent and Trademark Office that the fee address for patents obtained by Young & Thompson for Cabinet Bonnet Thirion was now to identify Acumass Computer Packages Annuity Services. Id. Young & Thompson properly sent the required Fee Address Indication Form to the U.S. Patent and Trademark Office. Id. See also, copy of printout from U.S. Patent and Trademark Office database of maintenance fee information, attached as Exhibit L and incorporated herein by reference. As noted in Mr. Lewitter's declaration, Computer Packages Inc. identified in the PTO database printout is a U.S. agent for Acumass.

In this regard, petitioner notes the following statement on page 5 of the decision:

However, it is noted that petitioner recieved a Reminder Notice from the PTO mailed September 5, 1995 (prior to expiration of the patent on January 28, 1996) and Notice of Expiration mailed 1/28/96. As patentee's designated counsel, it was the responsibility of counsel to pursue timely petition to accept delayed payment of the maintenance fee.

As is clear from Exhibit L, a reproduction of patent maintenance fee information printed from the United States Patent and Trademark Office's database, the first chronological entry is that of March 27, 1995 reflecting assignment of a payor number. This refers to the Fee Address Change Form filed March 17, 1995 by Young & Thompson and received by the

Patent and Trademark Office identifying Acumass/Computer Packages Inc. as the new designated recipient of maintenance fee information. This information change, reflected in the Patent and Trademark Office database months prior to the mail dates of both the Reminder Notice and Notice of Expiration, makes it clear that Young & Thompson did not receive either notice with respect to this patent. Instead, such notices were presumably sent to Acumass/Computer Packages Inc., which was not in a position to act on such notice as the Cabinet Bonnet Thirion database to which Acumass had access did not contain information relating to the instant patent, as such information had been replaced with information pertaining to the reissue application, as discussed above and as detailed in Mr. Lewitter's declaration.

As the maintenance fee service offered by Young & Thompson includes docketing, issuing reminder notices, and payment of maintenance fees, which services were now to be performed *respectively by Cabinet Bonnet-Thirion and Acumass*, Young & Thompson both refrained from entering new data into its docketing system for newly issued patents obtained on behalf of Cabinet Bonnet Thirion, and also notated the existing docket entries pertaining to Cabinet Bonnet Thirion's patents to indicate that no action was to be taken by Young & Thompson with respect to the maintenance fees for such patents. See, Exhibit H, Declaration of Angela Thumann. This removal of existing docket information was necessary to avoid sending reminder notices to and requesting instructions from Cabinet Bonnet Thirion, when Cabinet Bonnet Thirion was expecting to receive such services only from Acumass.

Cabinet Bonnet Thirion utilizes its own docketing system with respect to maintenance fees, which system is

initially triggered for data entry by the receipt of an original letters patent and the cover letter from Young & Thompson identifying the due dates for maintenance fee payments. See, Exhibit I, Declaration of Herbert Lewitter attached hereto, and Exhibit G, Declaration of Herbert Lewitter included with the original petition. Because of the highly unusual, and perhaps unique series of events, Cabinet Bonnet Thirion received neither the original Letters Patent for the instant patent nor the explanatory cover letter, and therefore never made the necessary entries into its docketing system for the instant patent. Therefore, even though Acumass had access to Cabinet Bonnet Thirion's computer database, as stated in Mr. Lewitter's declaration, there was an entry in such database with respect to U.S. Application Serial No. 449,942 (which issued as the instant patent) which was later *replaced by* the entries for U.S. Application Serial Nos. 898,407 (the reissue application) and 128,682 (the continuation of the reissue application).

Therefore, it was only because the instant patent issued in what was known to be a flawed state, and the original letters patent was sent to the U.S. Patent and Trademark Office with the required reissue application and not to Cabinet Bonnet Thirion with a cover letter identifying maintenance fee payment due dates as would normally be the case, and Cabinet Bonnet Thirion stopped using Young & Thompson for maintenance fee services prior to the due date of the first maintenance fee, and an employee in the annuities department of Cabinet Bonnet Thirion erroneously used information pertaining to the reissue application to replace, instead of supplement, information pertaining to U.S. Serial No. 449,942 which matured into the 5,084,004 patent, thereby

making such patent unknown to Acumass, that the maintenance fees of the present patent were not paid. Had any one of these conditions not been met, the due date of the maintenance fee would have been brought to the attention of Cabinet Bonnet Thirion and the fees would have been timely paid.

Throughout the entire process, both Young & Thompson and Cabinet Bonnet Thirion conducted themselves in a manner that easily meets the requirements of due care of a reasonably prudent person standard: Young & Thompson reasonably initially entered the data pertinent to the instant patent into its maintenance fee docketing system at the time of issue and also reasonably notated such data for no further action when Cabinet Bonnet Thirion elected to no longer utilize such services of Young & Thompson; Cabinet Bonnet Thirion reasonably entered the application serial number into its manual entry system and to its computer docketing systems which could only be triggered after receipt of the information furnished by original letters patent and accompanying cover letter, as it would be almost inconceivable that a set of circumstances such as that regarding the instant patent would come to pass, in which a patent issues but is not reported; and both parties reasonably believed that all patents for which Acumass was to take over maintenance fee responsibility had been correctly identified to Acumass.

For all of these reasons, it is respectfully requested that the decision dismissing petitioner's original petition to accept unavoidably delayed payment of maintenance fees be reconsidered, that the original petition considered together with the additional materials included herewith be granted, that delayed payment be accepted, and that the patent be reinstated.

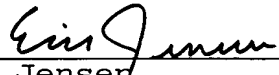
Patent No. 5,084,004

Should the accompanying check be found to be insufficient, the Commissioner is hereby authorized to charge any deficiency, including the second maintenance fee payment, to counsel's Deposit Account No. 25-0120. Similarly, the Commissioner is also authorized to credit counsel's Deposit Account No. 25-0120 any overpayment.

Respectfully submitted,

YOUNG & THOMPSON

By


Eric Jensen
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745 South 23rd Street
Arlington, VA 22202
Telephone: 703/521-2297

August 1, 2000

Exhibit H

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re

Claude RANOUX

Patent No. 5,084,004
(Serial No. 07/449,942)

Expired January 28, 1996
(Filed December 29, 1989)
Issued January 28, 1992

PROCESS FOR INTRA-UTERINE
FERTILIZATION IN MAMMALS AND
DEVICE FOR IMPLEMENTATION THEREOF

DECLARATION OF ANGELA THUMANN

I, Angela Thumann, declare as follows:

I am now an employee of the law firm of Young & Thompson, and I have been in the continuous employment of Young & Thompson since July 1986. My current responsibilities include docketing the payment of maintenance fees for U.S. patents. I am personally familiar with all of the maintenance fee docketing systems used by Young & Thompson.

Young & Thompson represents a number of clients in matters of patent prosecution before the United States Patent and Trademark Office. For some of these clients, Young & Thompson performs the additional service of docketing the due dates of maintenance fee payments, sending notices of impending due dates of such payments, and payment of maintenance fees. Young & Thompson utilizes two independent systems for docketing maintenance fees, each of which is triggered by the receipt of a Letters Patent from the U.S. Patent and Trademark Office.

The first is a computer-based system utilizing a program produced by Computer Packages Inc. entitled Patent

Management System for Windows. Upon receipt of a Letters Patent on behalf of a client for which Young & Thompson docket maintenance fee payments, a first docketing clerk will enter the patent number and issue date of the patent into a database managed by the computer program. The original Letters Patent is sent to Young & Thompson's client together with a cover letter. The program then automatically calculates the dates upon which all of the maintenance fees are due for the patents in the database. The program produces an output indicating those patents in the database for which a maintenance fee payment is soon due.

In addition to this computer-based tracking and reminder system, Young & Thompson also utilizes a manual entry system maintained in a bound log book. After the first docketing clerk performs the data entry discussed above, a photocopy of the cover of the patent prosecution file corresponding to the received Letters Patent is given to me and I create entries indicating when each of the maintenance fees comes due for such patent.

Approximately three months before a maintenance fee payment is due I send the client a reminder notice indicating the due date and the cost of such payment.

Young & Thompson initially creates and subsequently maintains entries in the respective docketing systems only for those clients of Young & Thompson who use Young & Thompson's maintenance fee payment services.

When Young & Thompson received notification from Cabinet Bonnet Thirion that Young & Thompson was no longer to

provide maintenance fee services with respect to patents obtained on behalf of Cabinet Bonnet Thirion, Young & Thompson took the following steps:

As Cabinet Bonnet Thirion's patents came up for a reminder, a "Fee Address" Indication Form was filed in the United States Patent and Trademark Office indicating that Accumas Computer Packages Annuity was to be listed as the fee addressee. At that time our bound book was marked that a fee address was filed and that we no longer handled the fees for those patents.

Attached hereto are pages H-1, H-2, and H-3, which are photocopies of the pages in the bound log book which address U.S. Patent No. 5,084,004, such entries appearing in line numbers 1, 33, and 25, respectively. Each page corresponds to one of the scheduled maintenance fee payments due for this patent. Numbered columns 1-4 contain entries representing, respectively, the patent number, the issue date of the patent, Young & Thompson's client, and notes pertaining to disposition. Column 4 of line 1 of page H-1 contains the notation "they do 3/17/95" and the inventor name column is also notated "fee add 3/17/95". Column 4 of the entry for this patent on each of pages H-2 and H-3 also includes a "they do" entry. These entries reflect my understanding that Young & Thompson was not to perform maintenance fee services for this patent and that a fee address form was sent to the United States Patent and Trademark Office on March 17, 1995.

Attached also as pages H-4 and H-5 are two screen prints from the computer database showing the entries for the 5,084,004 patent. The entries identified as "Tax 3.5", "Tax 7.5", and "Tax 11.5" refer to the three scheduled maintenance fee

payment due dates. The "x" in the box for each of these entries for this patent was made to prevent the computer program from issuing a reminder for the maintenance fee payments for this patent, in accordance with Cabinet Bonnet Thirion's instructions.

I am unaware of any instance in which the above-described system has failed to provide the proper notification of the impending due date of a maintenance fee to a client who, at the time such maintenance fee was due, had engaged the services of Young & Thompson for such docketing services.

I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the patent.


Angela Thumann

Date August 1, 2000

1	7 28	Ramsey	5084004	1-28-92	Harrison	3/17/95	
2	8 16	Schally et al.	4725577	2-16-88	Micheli	8-8-95	3/26/96
3	7 5	Williams (no file)	4716842	1-5-88	Hopkins	7/3/95	
4	7 7	Holley (no file)	5078214	1-7-92	Harrison	7/3/95	
5	7 28	Norman (no file)	5083796	1-28-92	Harrison	8-8-95	
6	8 9	Marriott (no file)	4724023	2-9-88	Harrison	8-9-95	
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1	825 Van Breemen	5090746	2-25-92	Nederlandsch drop '95	1
2	818 Imamura et al.	5089393	2-18-92	Hypocritae they do '97	2
3	818 Akasaka et al.	5089408	2-18-92	Hypocritae drop '93	3
4	818 Takahashi et al.	5089833	2-18-92	Hypocritae	4
5	825 Ueki	5090800	2-25-92	Hypocritae	5
6	93 Buzzi	5092021	3-3-92	Fiammenghi	6
7	93 Hestvet et al.	5092170	3-3-92	Hymn-J (Chd) they do '95	7
8	93 Oliver et al.	5092194	3-3-92	Hymn-J (Chd) they do '95	8
9	93 Giblet et al.	5092907	3-3-92	Piper drop '93	9
10	93 Kawasaki et al.	5092116	3-3-92	Suginura	10
11	93 Gunser	5092139	3-3-92	Bruce they do '92	11
12	917 Zobelev et al.	5095647	3-17-92	Gscheli no answer '95	12
13	917 Edwards	5095756	3-17-92	Hymn-J (Chd) no answer '95	13
14	917 Zellweger	5096414	3-17-92	Piper someone else pays 10000	14
15	917 Boind et al.	5097105	3-17-92	Kauling	15
16	917 Harada et al.	5097431	3-17-92	Universal	16
17	917 Harada et al.	5097432	3-17-92	Universal	17
18	924 Buzzi et al.	5097577	3-24-92	Fiammenghi	18
19	924 Col	5097919	3-24-92	Piper they do '95	19
20	924 Kawasaki et al.	5097943	3-24-92	Suginura	20
21	924 Schick	5097944	3-24-92	They Durand	21
22	924 Golderwaard	5098323	3-24-92	Nederlandsch	22
23	924 Ozawa et al.	5098380	3-24-92	Universal	23
24	924 Eisenberg et al.	5097751	3-24-92	Piper drop '95	24
25	924 Dance	5097991	3-24-92	Piper	25
26	924 Muramatsu et al.	5099264	3-24-92	Hypocritae	26
27	930 Hrdlicka et al.	5099691	3-31-92	Bee drop 1/100	27
28	930 Crossman et al.	5100427	3-31-92	Hymn-J (Chd)	28
29	930 Thumford	5100428	3-31-92	Hymn-J (Chd)	29
30	930 Yamashita et al.	5100789	3-31-92	Piper they will handle '93	30
31	930 Ganetti	5101358	3-31-92	Piper drop 8/99	31
32	77 Imamura et al (no file)	5079158	1-7-92	Hypocritae they do '97	32
33	728 Ganouf	5084004	1-28-92	Piper they do '95	33
34	77 Holley (no file)	5078214	1-7-92	Morrison	34
35	728 Norman (no file)	5083796	1-28-92	Morrison	35
36	7 Be Neri	5479795	1-2-96	Berneschi	36
37	72 Taddei et al.	5480090	1-2-96	Fiammenghi	37

1	93	Kawasaki et al	5092116	3-3-92	Sugimura	pd 9-7-99	1
2	93	Bunker	5092139	3-3-92	Crupi	they do 92	2
3	917	Zobele et al	5095647	3-17-92	Reckels	pd 19-17-99	3
4	917	Edwards	5095756	3-17-92	Thynn-J (Ch)	no answer 95	4
5	917	Zellweger	5096414	3-17-92	Andin	someone else pays 1-12-00	5
6	917	Boin et al	5097105	3-17-92	Thoulinex	pd 2-7-00	6
7	917	Harada et al	5097431	3-17-92	Universal	pd 9-10-99	7
8	917	Harada et al	5097432	3-17-92	Universal	pd 9-10-99	8
9	924	Buzzi et al	5097577	3-24-92	Frammingh	pd 9-17-99	9
10	924	Cof	5097919	3-24-92	Aruty	they do 95	10
11	924	Kawasaki et al	5097943	3-24-92	Sugimura	pd 9-22-99	11
12	924	Schick	5097944	3-24-92	Tony Durand	no answer 6/00	12
13	924	Gohervart	5098323	3-24-92	Nederlandsch	pd 9-22-99	13
14	924	Iizawa et al	5098380	3-24-92	Universal	no answer 6/00	14
15	924	Eisenberg et al	5097751	3-24-92	Reckels	drop 8-13-99	15
16	924	Lance	5097991	3-24-92	Piper	pd 9-22-99	16
17	924	Muramatsu et al	5099264	3-24-92	Kyotoku	pd 9-22-99	17
18	930	Hrdlicka et al	5099691	3-31-92	Reck	drop 1-12-00	18
19	930	Crossman et al	5100427	3-31-92	Thynn-J (Ch)	pd 3-22-00	19
20	930	Thunford	5100428	3-31-92	Thynn-J (Ch)	pd 9-27-99	20
21	930	Yamashita et al	5100789	3-31-92	Aruty	they handle 93	21
22	930	Genetti	5101358	3-31-92	Nickeli	drop 8-13-99	22
23	922	Sasagawa et al (no file)	4732765	3-22-88	Kisaki	drop 6-23-97	23
24	77	Imamura (no file)	5079158	1-7-92	Aruty	they do 97	24
25	728	Ranous	5084004	1-28-92	Thinnon	they do 95	25
26	816	Schally et al (no file)	4723577	2-16-88	Nickeli	someone else pays 5-20-98	26
27	75	Williams (no file)	4716842	1-5-88	Hopkins	reinstated 3-20-00	27
28	77	Holley (no file)	5078214	1-7-92	Morrison	pd 6-23-99	28
29	728	Norman (no file)	5083796	1-28-92	Morrison	pd 6-25-99	29
30	89	Marriott (no file)	4724023	2-9-88	Morrison	pd 6-25-99	30
31	72	Neri	5479795	1-2-96	Berneschi	pd 6-15-99	31
32	72	Saddei et al	5480090	1-2-96	Frammingh	pd 6-25-99	32
33	72	Pavageau et al	5480251	1-2-96	Dawidowicz	drop 6-24-99	33
34	72	Parise et al	5481750	1-2-96	Thoulinex	drop 8-13-99	34
35	72	Hendriks et al	5479682	1-2-96	Nederlandsch	no answer 6/00	35
36	72	Watanabe	5480815	1-2-96	REC	they pay 98	36
37	79	Lerner	5482052	1-9-96	Reckels	pd 6-25-99	37

Young and Thompson Patent System

File Edit View Records Window Help

Country Applications			
<div> <div>Country Applications</div> <div> <div>Clear</div> <div>Copy</div> <div>Search</div> <div>Save</div> <div>Print</div> <div>Delete</div> <div>Undo</div> <div>Exit</div> </div> </div>			
Case Number:	HALMP942	Country:	US
Client:	Cabinet Bonnet-Thirion	SubCase:	
Case Type:	ORD	Application Status:	Granted
Application Number:	7-449942	Filing Date:	29-Dec-1989
Patent Number:	5084004	Issue Date:	28-Jan-1992
Publication Number:		Publication Date:	
Tax Schedule:	SE	Expiration Date:	
Agent:		Agent Reference Number:	
Press PGDN to Edit/View Actions and Remarks			
Show Outstanding Actions:		Case Number:	HALMP942 US
4 Action(s) Due	Due Date	Indicator	Action Taken Response Sent
Record: 1	of 1		

Form View

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7:52 AM

Young and Thompson Patent System

File Edit View Records Window Help

Country Applications

Case Number:

4 Action(s) Due	Due Date	Indicator	Action Taken	Response Sent
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Tax 3.5	28-Jul-1995	Computer	<input checked="" type="checkbox"/>	<input type="button" value="..."/>
Tax 7.5	28-Jul-1999	Computer	<input checked="" type="checkbox"/>	<input type="button" value="..."/>
Tax 11.5	28-Jul-2003	Computer	<input checked="" type="checkbox"/>	<input type="button" value="..."/>
*			<input type="checkbox"/>	<input type="button" value="..."/>

Record: 1 of 4

Remarks:

UserID:
 Date Created:
 Last Update:

Record: 1 of 1

Form View

Start Young and Thompson Pat... 7:49 AM

Exhibit I

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Claude RANOUX

Patent No. 5,084,004
(Serial No. 07/449,942)

Expired January 28, 1996
(Filed December 29, 1989)
Issued January 28, 1992

PROCESS FOR INTRA-UTERINE
FERTILIZATION IN MAMMALS AND
DEVICE FOR IMPLEMENTATION THEREOF

DECLARATION OF HERBERT LEWITTER

I, Herbert Lewitter, declare as follows:

1. I am the same Herbert Lewitter, registered patent attorney with the industrial property firm Cabinet Bonnet-Thirion since February 1970, who previously submitted a declaration dated February 18, 2000 (Exhibit G) in respect of the Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent Under 37 CFR § 1.178b.
2. I am familiar with the business relationship between Cabinet Bonnet-Thirion and Young & Thompson, including the transfer of maintenance fee responsibilities from Young & Thompson to Acumass Computer Packages Annuity Service for all patents which issued from applications for which Young & Thompson represented clients of Cabinet Bonnet Thirion and acted under instructions of Cabinet Bonnet-Thirion.
3. As of the issue date of Patent No. 5,084,004, Young & Thompson was providing to Cabinet Bonnet-Thirion maintenance fee services, which services

included docketing, sending reminder notices, and payment of maintenance fees.

4. The correspondence reproduced as Exhibit C in the original petition of February 18, 2000 represents a letter of December 28, 1993 sent from Young & Thompson to Cabinet Bonnet-Thirion requesting confirmation that Young & Thompson was to discontinue docketing of firm's cases and the name to be indicated on the "fee address" indication form. Cabinet Bonnet-Thirion replied by a reminder to that letter on February 5, 1994 confirming that Young & Thompson was to discontinue docketing our cases and specifying that the fee address indication form was to be made out in the name of Acumass Computer Packages Annuity Service, payor number 3000337. Young & Thompson then replied on March 8 requesting that we fax the complete address of Acumass Computer Packages Annuity Services. Cabinet Bonnet-Thirion again replied, apparently on the same day, merely indicating the address of Acumass Computer Packages Annuity Service, (all correspondence shown in Exhibit C).

5. The intention of Cabinet Bonnet Thirion reflected in this correspondence was that Young & Thompson was no longer to make new entries in Young & Thompson's maintenance fee docketing system for future issued patents issued from applications for which Young & Thompson acted for clients of Cabinet Bonnet Thirion, and that Young & Thompson would be deleting from its docketing system entries relating to issued patents obtained for clients of Cabinet Bonnet Thirion.

6. The decision poses questions concerning the transfer of responsibilities from Young & Thompson to Acumass. Since 1985, Acumass has been paying annuities and maintenance fees in countries throughout the world directly or through its agents in various countries, e.g. Computer Packages Annuity Service for clients of our firm. Acumass has access to Cabinet Bonnet Thirion's worldwide patent database, and Acumass forwards the U.S. portion of such database to its U.S. agent, Computer Packages Annuity Service, which Computer Packages adds to its own computer docketing system. Acumass uses its docketing system to inform Cabinet Bonnet Thirion that a maintenance fee payment for one of its patents is coming due. When Cabinet Bonnet Thirion responds that the maintenance fee for a U.S. patent is to be paid, Acumass instructs Computer Packages Annuity Service to execute such payment. Thus, there was strictly speaking no transfer of responsibilities at or around March 1994 for docketing maintenance fees and annuities previously handled by Young & Thompson from that firm to Acumass/Computer Packages Annuity Service, rather the back up being provided by Young & Thompson was discontinued, because Young & Thompson provides its maintenance fee docketing and reminder services only in conjunction with maintenance fee payment services.

7. Cabinet Bonnet-Thirion has at all times maintained a dual system for docketing both maintenance fees as well as annuities throughout the world, not unlike that used by Young & Thompson as set forth in the declaration of Angela Thuman (Exhibit H). The first is a computer based system which from 1985 through July 1999 was a main frame computer system owned and operated by Ordipat in Bagneux, outside of Paris, France which used the proprietary Ordipat software. Ordipat was originally set up by five major French industrial property firms in 1978 and

a total of some 20 IP firms have used this system. Cabinet Bonnet-Thirion adopted that Ordipat system in 1985. The Ordipat system docketed for the subscribing industrial property firms hundreds of thousands of patents for the subscribing industrial property firms throughout the world, including the United States. The subscribing firms including ours had computer terminals in their offices for entering relevant information into the system. As soon as filing information on an application is available, it is entered on the system at the terminal in the subscribing firm. In the case of annuities are due yearly reckoned from the filing date, the effect of entry is to docket automatically those applications/patents for payment. Series of reminders are generated by the main frame computer and delivered on a monthly basis to the subscribing industrial property firms, including ours.

To the best of my knowledge and belief, in this particular matter, the basic French patent application would have been entered on the computer based system in 1987, the PCT application in 1988, and the national designations in 1989, including Serial No. 449,942.

At the time of filing, during the prosecution and at the time of issuance, Ms. Yvette Charlot was the head of the annuities department and had a single docketing clerk, Ms. Reine Ferrand who handled annuities and maintenance fees for countries other than France. Ms. Charlot joined the firm in April 1958 and she retired in April 1998. Her assistant, Ms. Ferrand joined the firm in April 1974 and retired in December 1997. Our annuities operation was incorporated into the annuities department of our associated industrial property firm Rinuy,

Santarelli effective as of the date of the retirement of Ms. Charlot.

Cabinet Bonnet-Thirion was at all times responsible for entering information relative to patents and applications on its computer terminal into the Ordipat main frame computer. One or more terminals were also at Ordipat premises in Bagneux to access this information and to assist the subscribing IP firms in the case of difficulties.

Acumass also had such a terminal at its premises formerly in Bagneux, France and now in Paris, France, which it used for checking information when necessary. Acumass also printed out lists of patents/applications on a monthly basis in respect of patents/applications for payment of maintenance fees or annuities which they required instructions for payments of maintenance fees or annuities. These printouts were delivered to Cabinet Bonnet-Thirion. Cabinet Bonnet-Thirion checked the reminders produced by Ordipat with information on the manual entry system discussed below and sent these reminders to our clients. Upon receipt of instructions from our clients, the Acumass computer printouts were annotated by the docketing clerk Ms. Ferrand of our annuities department with information as to whether particular parents or applications were to be maintained or abandoned. The annotated printouts were returned to Acumass who made payments directly or issued instructions to its agents in the respective countries for payment of maintenance fees and annuities and, of course, informed Cabinet Bonnet-Thirion of such payment.

In July 1999, Ordipat discontinued the use of the main frame Ordipat system

and Cabinet Bonnet-Thirion did not adopt the new computer Ordipat system. Several months earlier, Cabinet Bonnet-Thirion had transferred all its maintenance fees and annuities data to a Memotech Mis-Brevets System which had been previously adopted by our associated industrial property firm Rinuy, Santarelli, 14 avenue de la Grande Armée, 75017 Paris, France. Thus, our annuities department has integrated all operations previously outsourced to Ordipat. However, Cabinet Bonnet-Thirion continues to use Acumass who, as in the past, provides lists of patents and applications for which instructions are required for maintenance or abandonment in all countries, except France.

8. Attached as Exhibits J.1-J.15 are printouts of all the screens, as currently available, relating to the family of patents and applications based on French application No. 87.06205 filed July 21, 1987. Exhibit J.1 shows the update of all data on this entire family of patents showing from left to right the family reference number BIE 113394, the country, e.g. "Etats-Unis d'Amérique" (United States of America), the type of patent right "BN" (national patent), "OEB" (European patent), "BND" (division or continuation application), the status of the patent or application, e.g. "DLV" ("Délivré" or issued), or "DEP" ("déposé" or pending), the patent number or serial number, which for reissue patent continuation application, is No. 128,682 and the filing date which for the reissue patent continuation application is September 30, 1993.

9. The following screen prints (Exhibits J.2-J.15) show the individual patents or applications of this patent family, namely, France (FR) (Exhibit J.2), United States (Etats-Unis) (Exhibit J.3), Australia (AU) (Exhibit J.4), European Patent

(EP) (Exhibit J.5), Euro-France (FR) (Exhibit J.6), Euro-Sweden (SE) (Exhibit J.7), Euro-Austria (AT) (Exhibit J.8), Euro-Italy (IT) (Exhibit J.9), Euro-Belgium (BE), (Exhibit J.10) Euro-Great Britain (GB) (Exhibit J.11), Euro-Netherlands (NL), (Exhibit J.12), Euro-Luxembourg (LU) (Exhibit J.13) Euro-Switzerland (CH) (Exhibit J.14), Euro-Germany (DE) (Exhibit J.15).

10. Only screen print (Exhibit J.3) will be considered in detail. In the dark top line is shown "Brevet" (patent), "Dossier" (file), which is the patent family reference BIE 113394, "Pays" (country) US and the type of patent right application "BND" (division or continuation). The following line provides internal reference numbers and the line after that shows that the operation is annuity management ("Gérer les annuités"). The line after that indicates "Dépôt" (that is application) the Serial No. 128682, "Pub.", that is the publication number, which is left blank and then "Délivr." or issuance, which is also left blank. The next operative line shows the name of the beneficial owner of the application Biofertec Ltd (the patentee Dr. Claude Ranoux is president of that company) and the PCT application number PCT/FR/88/00212. The following line indicates "Payeur", that is the entity we invoice for the services which information in this case is the same as the immediately preceding line. On the next line is our agent for payment, here Acumass along with Acumass's reference No., namely 0505330. The following line indicates the current status, namely ("Evt.") which in this case shows that it is the filing ("Dépôt") of the case followed by the date ("Date") September 30, 1993 and the number (N°) 128,682, that is the Serial No. 128,682. The next operative line shows the same status information at this stage, namely that of an application ("Dep"), the description of the status, in this

case the application having indeed been filed ("Dépôt effectué"), the date at which this was performed, September 30, 1993 and the relevant number, here Serial No. 128,682. Unlike the screen prints for all the other patents of this family, no information is shown relative to the due date of the maintenance fee or the number of the maintenance fee or the expiration date of the patent right which information is shown the lower right hand corner of each of those screen prints. The information on the U.S. screen print corresponds to the information to the best of my knowledge and belief, as it was transferred from the Ordipat computer system (in 1999) to the Memotech Mis-Brevets computer system, and has not been updated or modified.

11. The second system is a manual entry system for docketing maintenance fees and annuities maintained on file cards. Attached as Exhibits K1-K9 are color photocopies of each of the file cards for the countries designated in PCT application No. PCT/FR/88/00212 and validated and in force, including those derived from European patent No. 0.357.656, namely Germany ("Allemagne") (Exhibit K.1), Switzerland ("Suisse") (Exhibit K.2), Netherlands ("Pays-Bas") (Exhibit K.3), Belgium ("Belgique") (Exhibit K.4), Luxembourg ("Luxembourg") (Exhibit K.5), Italy ("Italie") (Exhibit K.6), Sweden ("Suède") (Exhibit K.7), Great Britain ("Grande Bretagne") (Exhibit K.8), Austria ("Autriche") (Exhibit K.9). All these cards indicate the filing date ("Dépôt le", literally application on) of May 2, 1988, the date of grant ("Délivré le", granted on) of December 29, 1993, the European patent application No 88.903871.7, European patent number ("sous N°", under number) 0.357.656, the client's account reference ("C[om]pte client, or client account) 31032000, the internal patent reference ("Réf[erence]

"Brevet", patent reference (14308-14316, depending on the case), the name of the foreign associate and its reference ("Code Correspondant"), ([foreign] associate's code) as well as the type of patent ("Brevet", patent) EU[ro] followed by the country name, the patent number ("N°", No.) filed on ("du", of) May 2, 1988, and then the title "Pour", for) ("Procédé de fécondation intra-utérine de mammifères et dispositif pour sa mise en œuvre" (Process for intra uterine fertilization in mammals and process of implementation thereof), the name of the patentee/applicant ("au nom de", in the name of) Claude Ranoux, and in addition the French priority application "FR" 87 06205 and the filing priority date of April 30, 1987. On the bottom row of each of the cards are boxes with numerals from "2" to "20", corresponding to annual payments, which are annotated for the years for which payments have been effected. It is noted, for example, that annuities were paid on all these Euro-patents from 1994 through 2000 and prior thereto on the European patent application.

12. The file cards for the national patents are attached as Exhibits K.10 for Australia and K.11 for United States. It is noted that Australian file card indicates annuity payments from 1994 through 2000 and bears similar information as the nationally validated European patent.

13. Stapled to the U.S. file card are two letters substantially contemporaneous with the filing of the continuation of Serial No. 07/898,407, namely a letter from Young & Thompson addressed to Cabinet Bonnet-Thirion, attached as Exhibit K.12 and a letter in French addressed to Dr. Claude Ranoux, attached as Exhibit K.13. Also attached as Exhibit K.14 is a translation in English. This U.S.

maintenance fee file card is manifestly not the original file card but a substitute file card which replaced the original file card as it gives, inter alia, the filing date of the reissue patent application on June 15, 1992 under Serial No. 898,407. We find similar information on this substitute U.S. file card, such as the filing date ("Dépôt le", application on) of June 15, 1992 and Serial No. ("sous N°", under No.) 898407, continuation application filing date ("Cont.") of September 30, 1993 and the continuation filing No ("sous No.", under No.) 08/128682 and to the right the client's account ("Compte Client") 3103200, and the patent reference ("Ref. Brevet", Patent ref.) 13664 and on the following line, the U.S. associate's name ("Code Correspondant", [foreign] associate's code) Young & TH[ompson]" and the foreign associate's code 03670090, the type of patent and country ("brevet") REISSUE-U.S..A (sic) without any number after "N°" (No.) or date of issuance after "du" (on). On the next line is the title in French and after that, the name of the applicant and finally, references to the French priority application FR 87.06205 and priority date of April 30, 1987, the PCT application No. PCT/FR/88/00212 and the PCT filing date of May 2, 1988, and the U.S. patent number ("BT US", USP) 5.084.004) and the date of issuance of January 28, 1992. There is no indication as to payment of any maintenance fees in any of the numbered boxes 2-20. This card was obviously updated at the time of filing the continuation application No. 08/128,682 as the relevant information has been indicated on the card, as described above, which is confirmed by the contemporaneous correspondence stapled to the file card, Exhibits K. 12 and K.13.

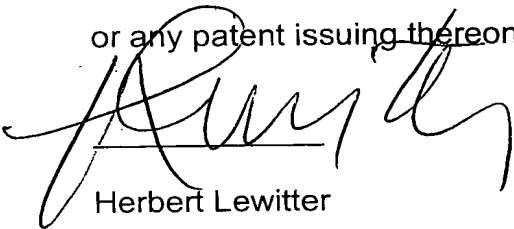
14. As indicated in my declaration of February 18, 2000 patents have always

been docketed in our systems at the time the patent issued as the issue date determines when maintenance fees are due. But the corresponding underlying application is entered onto the manual and computerized system at the time of the filing date. To actually docket maintenance fees, the manual system and the computerized system require the vital information, namely the U.S. patent number and U.S. issue date. Our associates in United States, in this case Young & Thompson, sent to Cabinet Bonnet-Thirion (and continue to send to Cabinet Bonnet-Thirion) along with the Letters Patent, a letter specifying the patent number and issue date and the dates on which the three maintenance fees are due in United States.

As noted in the declaration of Robert J. Patch (Exhibit A) and the present Petition for Reconsideration of Decision, the original letters patent on Patent No. 5,084,004 was not forwarded to Cabinet Bonnet-Thirion but was returned to the United States Patent and Trademark Office, as required for the reissue application filed June 15, 1992. Also, more important, as the original letters patent was not sent to Cabinet Bonnet-Thirion, Young & Thompson did not send its usual covering letter to Cabinet Bonnet-Thirion which specifies inter alia the dates on which the maintenance fees were due on Patent No. 5,084,004. (This service continues to be provided by Young & Thompson even though they are no longer responsible for the docketing and maintenance fee in the United States.) Accordingly, that vital information was not provided to our annuities department and therefore was not entered on the original manual system card or the Ordipat database to docket the maintenance fees due on Patent No. 5,084,004.

When the reissue application Serial Number 07/898407 was filed on June 15, 1992, that information was duly provided to our annuities department and the substitute card was prepared and filed and the corresponding information was entered into the Ordipat computer system instead of updating the information on the original card and updating the data base information with respect to the underlying application serial No. 449.942. Moreover, searches have not enabled us to find the original filing card for serial No. 449.942 and to the best of my knowledge and belief it was destroyed at the time the substitute card was prepared. The substituted information on the manual and computer maintenance fee systems therefore lacks the vital maintenance fee information pertaining to patent No. 5,084,004.

And I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


Herbert Lewitter

Date July 28, 2000

Exhibit J

Mise à Jour

Auteur: RECUPERATION DONNEES BREVETS

Date: 06/07/1999

OK

Liste (Dossier d'invention)

BIE113394	FRANCE	BN	DLV	8706205	21/07/1989	
BIE113394	FRANCE	OEB	DLV	0357656	29/12/1993	
BIE113394	CONVENTION EUROPEENNE	OEB	DLV	0357656	29/12/1993	
BIE113394	ALLEMAGNE	OEB	DLV	P3886745.1.08	29/12/1993	
BIE113394	AUSTRALIE	BN	DLV	620331	20/02/1992	
BIE113394	AUTRICHE	OEB	DLV	0357656	29/12/1993	
BIE113394	BELGIQUE	OEB	DLV	0357656	29/12/1993	
BIE113394	ETATS-UNIS D'AMERIQUE	BND	DEP	128682	30/09/1993	
BIE113394	ITALIE	OEB	DLV	0357656	29/12/1993	
BIE113394	LUXEMBOURG	OEB	DLV	0357656	29/12/1993	
BIE113394	PAYS-BAS	OEB	DLV	0357656	29/12/1993	
BIE113394	ROYAUME-UNI	OEB	DLV	0357656	29/12/1993	
BIE113394	SUEDE	OEB	DLV	88903871.7	29/12/1993	
BIE113394	SUISSE	OEB	DLV	0357656	29/12/1993	

Ok Annuler

Exhibit J.1

Fiche brevet

Fichier Edition Impression Procédures Option

Brevet Dossier BIE113394 Pays AU Type BN

Réf. int. 0010252/31032000 ☒ Visé N° ordre

Sit. Ann. GERE Gérer les annuités

Dépôt 17059 Pub. Délivr. 620331

Procédure Annuités Contacts Titre

D.L. BIOFERTEC BIOFERTEC LTD PCT8800212

Payeur BIOFERTEC BIOFERTEC LTD ☐ Co-payeurs PCT8800212

Agent WATERM HAU WATERMARK

En cours: Evt DLV Date 20/02/1992 N° 620331

Evt	Libellé	Réalisation	Nature
DLV	Délivrance	20/02/1992	620331
DEP	Dépôt effectué	02/05/1988	17059

Prochaines formalités	Echéance	Nature
Prochain Quantième Ordipat		QT 11 - AN 99

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Prochaine Annuité
Date 02/05/2000
Quant 13
Expirat 02/05/2008

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Exhibit J.4

Fiche brevet

Fichier Edition Impression Procédures Option

☐ Brevet ☐ Dossier **BIE113394** ☐ Pays **EP** ☐ Type **OEB**

Réf. int. **0010107/31032000** ☐ Visé ☐ N° ordre

Sit. Ann. ☐

Dépôt **889038717** ☐ Pub. ☐ Délivr. **0357656**

Procédure ☐ Annuités ☐ Contacts ☐ Titre ☐

D.L. **BIOFERTEC** ☐ **BIOFERTEC LTD** **FR8706205**

Payeur **BIOFERTEC** ☐ **BIOFERTEC LTD** ☐ Co-payeurs ☐ **FR8706205**

Agent **CABT** ☐ **CABINET BONNET-THIRION**

En cours: ☐ Evt. **DLV** ☐ Date **29/12/1993** N° **0357656**

Evt.	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Prochain Quantième Ordipat		QT 00 - AN 00

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☐ Paiement Auto.
 Prochaine Annuité
 Date
 Quant.
 Expirat° **02/05/2008**

S 14

Exhibit J.5

Fiche brevet

Fichier Edition Impression Procédures Option

Brevet Dossier **BIE113394** Pays **FR** Type **OEB**

Réf. int. 0014936/31032000 ☒ Visé N° ordre

Sit. Ann. GERE ☒ Gérer les annuités

Dépôt 889038717 Pub. 0357656 Déliv. 0357656

Procédure Annuités Contacts Titre

D.L. BIOFERTEC ☒ BIOFERTEC LTD FR8706205

Payeur BIOFERTEC ☒ BIOFERTEC LTD ☐ Co-payeurs FR8706205

Agent CABT ☒ CABINET BONNET-THIRION

Encours: **Ev.** DLV ☒ Date 29/12/1993 N° 0357656

Ev.	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Publication de la demande		0357656
Prochain Quantième Ordipat		QT 12 - AN 99

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Prochaine Annuité
Date 31/05/2000
Quant. 13
Expirat* 02/05/2008

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Exhibit J.6

Fiche brevet

Fichier Edition Impression Procédures Option

Brevet ☐ **Dossier** BIE113394 **Pays** SE **Type** OEB

Réf. int. 0014316/31032000 ☒ **Visé** **N° ordre**

Sit. Ann. GERE ☐ **Gérer les annuités**

Dépôt 889038717 **Pub.** 0357656 **Délivr.** 88903871.7

Procédure **Annuités** **Contacts** **Titre**

D.d. BIOFERTEC ☐ BIOFERTEC LTD FR8706205

Payeur BIOFERTEC ☐ BIOFERTEC LTD ☐ **Co-payeurs** FR8706205

Agent ALBIHNS ST ☐ H. ALBIHNS PATENTBYRA AB

En cours: **Ev.** DLV ☐ **Date** 29/12/1993 **N°** 88903871.7

Ev.	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	88903871.7
PUBD	Publication de la demande	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Prochain Quantième Ordipat		QT 12 - AN 99

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Prochaine Annuité
Date 31/05/2000
Quant. 13
Expirat. 02/05/2008

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Exhibit J.7

Fiche brevet

Fichier Edition Impression Procédures Option

Brevet Dossier BIE113394 Pays IT Type OEB

Réf. int. 0014313/31032000 ☒ Visé N° ordre

Sit. Ann. GERE Gérer les annuités

Dépôt 889038717 Pub. 0357656 Déliv. 0357656

Procédure Annuités Contacts Titre

D.I. BIOFERTEC BIOFERTEC LTD FR8706205

Payeur BIOFERTEC BIOFERTEC LTD ☐ Co-payeurs FR8706205

Agent JACOBA TUR JACOBACCI & PERANI

En cours Evt DLV Date 29/12/1993 N° 0357656

Evt	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Publication de la demande		0357656
Prochain Quantième Ordipat		QT 12 - AN 99

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☐ Term Disclaimer
☐ Paiement Auto.

Prochaine Annuité
Date 31/05/2000
Quant 13
Expirat 02/05/2008

8 14

Exhibit J.9

Fiche brevet

Fichier Edition Impression Procédures Option

Brevet Dossier BIE113394 Pays BE Type OEB

Rél. int. 0014309/31032000 ☒ Visé N° ordre

Sit. Ann. GERE Gérer les annuités

Dépôt 889038717 Pub. 0357656 Délivr. 0357656

Procédure Annuités Contacts Titre

D.L. BIOFERTEC BIOFERTEC LTD FR8706205

Payeur BIOFERTEC BIOFERTEC LTD ☐ Co-payeurs FR8706205

Agent BEDE CABINET BEDE

En cours: Evt. DLV Date 29/12/1993 N° 0357656

Evt.	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Publication de la demande		0357656
Prochain Quantième Ordipat		QT 12 - AN 99

☐ Licence de droit
☐ Term. Disclaimer
☐ Paiement Auto.

Prochaine Annuité
Date 31/05/2000
Quant. 13
Expirat. 02/05/2008

9 14

Exhibit J.10

Fiche brevet

Fichier Edition Impression Procédures Option

☐ Brevet ☐ Dossier **BIE113394** Pays **GB** Type **OEB**

Réf. int. **0014312/31032000** ☒ Visé N° ordre

Sit. Ann. **GERE** ☐ Gérer les annuités

Dépôt **889038717** Pub. **0357656** Délivr. **0357656**

Procédure Annuités Contacts Titre

D.L. **BIOFERTEC** ☐ **BIOFERTEC LTD** FR8706205
 Payeur **BIOFERTEC** ☐ **BIOFERTEC LTD** ☐ Co-payeurs FR8706205
 Agent **YOUNG LO** ☐ **D. YOUNG & CO.**

En cours : Evt. **DLV** ☐ Date **29/12/1993** N° **0357656**

Evt.	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Publication de la demande		0357656
Prochain Quantième Ordipat		QT 12 - AN 99

☐ Licence de droit
☐ Term. Disclaimer
☐ Paiement Auto.

Prochaine Annuité
 Date **02/05/2000**
 Quant. **13**
 Expirat. **02/05/2008**

10 14

Exhibit J.11

Fiche brevet

Fichier Edition Impression Procédures Option

Brevet Dossier BIE113394 Pays LU Type OEB

Réf int 0014314/31032000 ☒ Visé N° ordre

Sit Ann GERE Gérer les annuités

Dépôt 889038717 Pub 0357656 Déliv 0357656

Procédure Annuités Contacts Titre

D.L. BIOFERTEC BIOFERTEC LTD FR8706205

Payeur BIOFERTEC BIOFERTEC LTD ☐ Co-payeurs FR8706205

Agent FREYLINGER ERNEST T. FREYLINGER

En cours Evt DLV Date 29/12/1993 N° 0357656

Evt	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Publication de la demande		0357656
Prochain Quantième Ordipat		QT 12 - AN 99

☐ Licence de droit
☒ Term Disclaimer
☐ Paiement Auto.

Prochaine Annuité
Date 31/05/2000
Quant 13
Expirat 02/05/2008

12 14

Exhibit J.13

Fiche brevet

Fichier Edition Impression Procédures Options

Brevet Dossier **BIE113394** Pays **CH** Type **OEB**

Réf int **0014310/31032000** ☒ Visé N° ordre

Sit Ann **GERE** ☒ Gérer les annuités

Dépôt **889038717** Pub **0357656** Délivr **0357656**

Procédure Annuités Contacts Titre

D.I **BIOFERTEC** **BIOFERTEC LTD** FR8706205

Payeur **BIOFERTEC** **BIOFERTEC LTD** ☐ Co-payeurs FR8706205

Agent **KIRKER MRQ** **KIRKER & CO.**

En cours Evt **DLV** Date **29/12/1993** N° **0357656**

Evt	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	0357656
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Publication de la demande		0357656
Prochain Quantième Ordipat		QT 12 - AN 99

☐ Licence de droit
☐ Term Disclaimer
☐ Paiement Auto

Prochaine Annuité
Date **31/05/2000**
Quant **13**
Expirat **02/05/2008**

13 14

Exhibit J.14

Fiche brevet

Fichier Edition Impression Procédures Option

Brevet Dossier BIE113394 Pays DE Type OEB

Réf.int: 0014311/31032000 Visé N°ordre

Sit. Ann. GERE Gérer les annuités

Dépôt: 889038717 Pub: 0357656 Délivr: P3886745.1.08

Procédure Annuités Contacts Titre

DM: BIOFERTEC BIOFERTEC LTD FR8706205

Raveur: BIOFERTEC BIOFERTEC LTD Co-payeurs FR8706205

Agent: MULLER BO MÜLLER-BORE & PARTNER

En cours Evt: DLV Date: 29/12/1993 N°: P3886745.1.08

Evt	Libellé	Réalisation	Nature
DLV	Délivrance	29/12/1993	P3886745.1.08
DEP	Dépôt effectué	02/05/1988	889038717

Prochaines formalités	Echéance	Nature
Publication de la demande		0357656
Prochain Quantième Ordipat		QT 12 - AN 99

☐ Licence de droit
☐ Term. Disclaimer
☐ Paiement Auto.

Prochaine Annuité
Date: 31/05/2000
Quant: 13
Expirat: 02/05/2008

14 14

Exhibit J.15

Exhibit K

Depot le 02.05.88 sous No 889038717

Publie le sous No 0357656

Delivre le 29.12.93 sous No P3886745.108

Cpt Clair REF Brevet
31032000 14344

Codé Correspondant : MUEER. 03012100

Brevet EU - ALLEMAGNE N° P3886745.108 du 02.05.88
pour Procédé de pondération intra-utérine de manière
et dispositif pour sa mise en œuvre.

Au nom de Claude RANOUX.

Passer SR 8706205 - 804487

25	31	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50
					94	95	96	97	98	99								

Exhibit K.2

Dépoté le

02.05.88

sous N°

889038717

Publié le

29.12.93

sous N°

0357656

Délivré le

29.12.93

sous N°

03006520

Code Correspondant:

KIRKER

03006520

Brevet

EU. SUISSE

N°

0357656

du

02.05.88

pour Procédé de localisation intra-utérine de l'embryon et dispositif pour sa mise au monde

au nom de

Claude RANOUX

Reçu par 8706205 - 30487

Cte Client REF Brev
31032000 14810

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
						94	95	96	97	98	99	200							

02.05.88

ADP 01038717

Sous No

0357656

Sous No

Cpt. David R. F. Brown
3103 2000 14315

Delmelle 29.12.93 Sous-No

Verenigde Oostindische

Brevet **EU-PAQS-BIAS** N° **0357656** du **02.05.78**

Procédé de pondération intra-ligne d'e
Mentaire et positif pour sa mise en œuvre.

au nom de
Claude RAYOUX

Base for 8706205-30487

1	
2	
3	95
4	96
5	97
6	98
7	99
8	100
9	
10	
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Exhibit K.4

Dépôt de 02.05.88

Sous No 889038717

Publié le

Sous No 0357656

Delivré le 29.12.93

Sous No

Code correspondant

BED 03010080

Brevet EU. BELGQUE N° 0357656 du 02.05.88

Pour Procédé de fondation intra-utérine de mammelle et dispositif pour sa mise en œuvre.

au nom de

Claude RANOUX

Prose: FR 8706205 - 30487

Cpte Client REF Brevet
31032000 14309

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
						94	95	96	97	98	99	200						

Exhibit K.5

Date le 02.05.88

sous No

88903871.7

Passe le

sous No

0357656

Matr le

29.12.93

sous No

Code Correspondant

FREYLINGER 03009530

Cpt Gault RET Burel
31032000 14314

Brevet

EU-LUXEMBOURG

N 0357656

du 02.05.88

pour Procès de récolement intra-étatique de
l'administrative et disposé pour sa mise en œuvre.

au nom de

Claude FANOUR

Passe: ER 8706205-30.4.87

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
					94	95	96	97	98	99	100							

Exhibit K.6

Dépôt le 02.05.88

88 903 871.7

Publié le

Sous-N° 0357656

Décreté le 29.12.93

Sous-N°

Relevé correspondant

STACOBACE 03006460

Brevet EU-ITALIE N°

0357656 du 02.05.88

Pour Recade de décoration intra-utérine de manière fixe et dispositif pour sa mise en œuvre.

au nom de

Claude RANOUX

Reçu par 8706205-30487

Cpt Olivier RET Burel
31032000 14313

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
					94	95	96	97	98	99	2000							

Exhibit K.7

Depoté: 02.05.88

Sous No.

88903871.7

Publié:

Sous No.

0357656

Delivré:

29.12.93

Sous No.

Coeff. Correspondant:

ALB1 HNS 03006700

Cpte Client

REF Bure

31032000

14316

Brevet EU-SUED

N° 88903871.7

du 02.05.88

pour Procédé de fécondation intra-utérine de
uniovulaire et dispositif pour sa mise en œuvre.

au nom de:

Claude RANDOUX

Reçu: SR 8706205-30487

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
					94	95	96	97	98	99	2000							

Exhibit K.8

Dépôt le 02.05.88 sous No 88903871.7

Publié le sous No 0357656

Revisé le 29.12.93 sous No

Code Correspondant YOUNG et Co 03007940

Brevet EU-G-BRETAGNE No 0357656 du 02.05.88

pour Procédé de fabrication ultra-ultra de membranes
et du positif pour sa mise en oeuvre.

au nom de :

Claude RANOUR.

Passer à 8706205-304.87

Cpte Client REC Bure
31032000 14312

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
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Exhibit K.9

Départ le 02.05.88 sous No 88903874.1

Publié le sous No 0357656

Délivré le 29.12.93 sous No

Code correspondant : BRAUNELISS 03011980

Brevet EU-AUTRICHE N° du 02.05.88

pour Procédé de pondération ultra-ultra-rapide de l'écriture et dispositif pour sa mise en œuvre.

Signature de Claude RANOUX

Brevet FIR 8706205-30487

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
						94	95	96	97	98	99	2000						

apt. écrit

31032000

REC Brevet
14308

Exhibit K.10

Dépôt le 02.05.88

Sous N° 17059-88

Cpte Client 31082000

REF Buvel 10252

Publié

Sous N°

Délivré le 20.02.92

Sous N°

620331

Ti.O. 20.8.10.92 par HAL

Code Correspondant

WATER MARK

03010410

SDA

Brevet

AUSTRALIE

N°

620331

du

02.05.88

pour Procédé de fécondation intra-utérine de mammifère et dispositif pour sa mise en œuvre.

au nom de :

Claude RANOUX

Base FR 5406205-30.4.87 - PET 880212 25.88

0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
-	59	90	91	92	93	94	95	96	97	98	99	200								

505330

Départ le

15.06.92

Sous No.

898407

Caut. 30.09.93

Sous No.

08/128682

31032000

REC Buser
13664

Départ le

Sous No.

Code Correspondant

YOUNG et TH 03006790

Brevet

REISSUE - U.S.A N°

du

pour Procédé de fécondation intra-utérine de mammifères
et dispositif pour sa mise en œuvre.

au nom de Claude RANOUX

Base FR 9706205-30.4.87 PCT/FR 880042-2.5.88-BT US 5084004-28.1.92

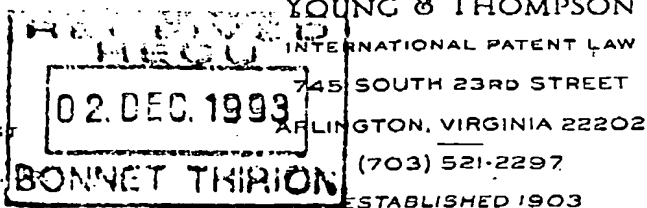
2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

15.06.92

Exhibit K.12

ROBERT J. PATCH
ANDREW J. PATCH
ROBERT F. HARGEST
BENOIT CASTEL
JOSEPH SCAFETTA

OF COUNSEL:
DOUGLAS V. RIGLER*
*NY, MD AND DC BARR ONLY



ESTABLISHED 1903

EMIL BONNELYCKE
(1875-1936)
WILLIAM H. YOUNG
(1902-1958)
IRVIN S. THOMPSON
(1903-1979)

TELEX: 248423 EMBON
CABLE ADDRESS: EMBON
TELEFACSIMILE (GROUPS I, II & III):
(703) 685-0573
(703) 979-4709

December 2, 1993

VIA TELEFAX

To: Cabinet Bonnet-Thirion

Gentlemen:

Vee per Heil
Dec-2-12-93

Re: RANOUX - New U.S. Patent Application
Continuation of S.N. 07/898,407
Your Ref. HAL/MP

Thank you for your telefax of December 1, 1993.

When a file wrapper continuation is filed, as in the present application, the Patent and Trademark Office does not make a new file folder. The papers initiating the file wrapper continuation are simply placed on top of those previously filed.

Therefore, the amendment of August 12, 1993, whose entry was denied, will be the next-to-top paper in the file.

We think, accordingly, that there is no need to repeat the arguments made in that next-to-top paper: we think the chances of the Examiner giving serious consideration to the "REMARKS" appended to that amendment, are the same whether we leave it in that amendment or whether we refile the same remarks in a preliminary paper.

Therefore, it is our suggestion that we simply await first action in the refiled application.

Very truly yours,

YOUNG & THOMPSON

By

RJP:slt

CABINET BONNET-THIRION

G. FOLDÈS

CONSEILS EN PROPRIÉTÉ INDUSTRIELLE
EUROPEAN PATENT ATTORNEYS

95, BOULEVARD BEAUMARCHAIS 75003 PARIS

PATENTS
TRADEMARKS
DESIGNS

Exhibit K.13

Dr. Claude RANOUX
2 Beverly Road
Arlington, Massachusetts 02174
U.S.A.

Paris, le 9 Novembre 1993

conseils en brevets d'invention
European Patent Attorneys

G. FOLDÈS
Ing. IEG
Licencié es Sciences

N/Réf. HAL/MP

V/demande de brevet aux ETATS-UNIS N° 07/898,407
Reissue

Cher Docteur,

B. DEYDIER
Ing. ECP

M. SAINT RAYMOND
Ing. ESPCI

J. BARBIN
Ing. I.N.S.A.

Conformément à vos instructions du 28 Septembre,
nous avons déposé une demande de Continuation de la
demande de redélivrance de votre brevet en référence.

Nous vous remettons ci-inclus la requête déposée
à cet effet, ainsi que copie de la demande de prolongation
du délai de réponse à la lettre officielle.

Nous nous permettons de joindre également notre
note de débit relative à ce nouveau dépôt.

Veuillez agréer, Cher Docteur, l'expression de nos
meilleurs sentiments.

H.A. LEWITTER
BME, JD
U.S. Patent Attorney
European Patent Attorney

I. BIED-CHARRETON
Maîtrise Chimie Organique
Ing. E.S.C.O.M.

M. GEORGE
D.E.A. de Droit privé

R. COMBES
D.E.S.S. P.I.
C.E.I.P.I. (Marques)

Cabinet BONNET-THIRION
G. FOLDÈS

Herbert LEWITTER

P.J.- 1 dossier
note de débit

Exhibit K.14

Translation of letter from Cabinet Bonnet-Thirion to Dr. Claude Ranoux
dated November 9, 1993

O/Ref. HAL/MP

Y/r US application No. 07/898,407
Reissue

Dear Dr. Ranoux:

In accordance with your instructions of September 28, we have filed a continuation of your reissue patent application in reference.

We enclose the request filed for this purpose as well as the request for an extension for responding to the official letter.

We take the liberty of also enclosing our debit note relative to this new application.

Very truly yours,

CABINET BONNET-THIRION
G. FOLDES

Herbert LEWITTER

encl: File
Debit note

Exhibit L

Patent Maintenance Fees - Public Inquiry

Patent#: 5084004 Filed: 05/02/88 Issued: 01/28/92 Serial#: 07449942
Status: EXPIRED, No 4th Year Fee Paid By: 01/28/96 Sml Entity: YES
Window Opens: 01/30/95 Surchg Due: 07/28/95 Expiration: 01/29/96
Fee Amt Due:\$ Surchg Amt Due:\$ Total Amt Due:\$
Fee Code: Surchg Code:
Title: PROCESS FOR INTRA-UTERINE FERTILISATION IN MAMMALS AND DEVICE FOR
IMPLEMENTATION THEREOF

Address For Fee Purposes:
COMPUTER PACKAGES INC
SUITE 300
414 HUNGERFORD DRIVE
ROCKVILLE MD 20850

Most Recent Significant Events:

06/01/00	Petition Related to Maintenance Fees Denied/Dismissed
02/18/00	Surcharge, Petition to Accept Pymt After Exp, Unavoidable
02/18/00	Petition Related to Maintenance Fees Filed
01/28/96	Patent Expired for Failure to Pay Maintenance Fees
09/05/95	Maintenance Fee Reminder Mailed
03/27/95	Payor Number Assigned

Exhibit M

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Claude RANOUX

**Patent No. 5,084,004
(Serial No. 07/449,942)**

**Expired January 28, 1996
(Filed December 29, 1989)
Issued January 28, 1992**

**PROCESS FOR INTRA-UTERINE
FERTILIZATION IN MAMMALS AND
DEVICE FOR IMPLEMENTATION THEREOF**

DECLARATION OF MR. Olivier BARLOY

I, Mr. Olivier BARLOY, declare as follows:

1. I have been employed in the capacity of Manager with Acumass, formerly at 8 avenue Aristide Briand, 92220 Bagneux, France and thereafter at 3 rue Moncey, 75009 Paris, France since October 1997. My current responsibility includes overseeing the payment of patent maintenance fees and annuities in all countries. I am fully familiar with the computer and annuity and maintenance fee docketing systems used by Acumass and, in particular the Ordipat main frame system which was in operation from May 1985 to July 1999 and was employed by Cabinet Bonnet-Thirion among others and used by ourselves for producing printouts of patents and patent applications which are annotated by our clients, including Cabinet Bonnet-Thirion, to indicate whether a particular patent or patent application is to be maintained or abandoned.

2. Acumass pays worldwide maintenance fees and annuities essentially for French industrial property firms including Cabinet Bonnet-Thirion and has been doing so since 1985, either directly or through payor agents in the particular country. Such is the case in United States where we use the services of Computer Packages Service Annuity in Rockville, Maryland.

3. We were directly connected to the Ordipat main frame computer terminals used for docketing maintenance fees and annuities in all countries from May 1985 to July 1999 when Ordipat finally discontinued service on that system. We were thus connected to the same main frame computer terminal as Ordipat and Cabinet Bonnet-Thirion as well as the other industrial property firms using services of Ordipat and Acumass. We had access only to files on matters which were entrusted to our company. Thus, at the time of filing of an application or a family of applications, the subscribing industrial property firm would enter the relevant data on the Ordipat main frame computer via its terminal. Amongst the data entered, the selecting paying agent which for many firms, including Cabinet Bonnet-Thirion, was Acumass.

4. As regards US patents, the industrial property firm used their terminal to enter data concerning US patent applications. Although that information was available to both Ordipat who operated the system and the industrial property firm, in this case Cabinet Bonnet-Thirion, Acumass did not have access to those files as maintenance fees were not due on pending patent applications. We could only access the file once the industrial property firm, here Cabinet Bonnet-Thirion, entered the vital information which was the patent number and the date of issuance of the patent and the designation of Acumass as the entity responsible for the payment of maintenance fees.

5. Accordingly, when Cabinet Bonnet-Thirion entered data concerning US patent application Serial No. 449,942, we would not have access to the file. Likewise, if Cabinet Bonnet-Thirion docketing personal did not enter the patent number, issue date and select Acumass as its payment intermediary, we could not access the file. Likewise, as regards reissue application Serial No. 898,407 and reissue continuation application No. 08/128,682, such information could not be accessed by us since the file information has in effect not been validated by Cabinet Bonnet-Thirion to enable such access. As the vital data was not entered into the Ordipat computer system, we never printed out information regarding US Patent No. 5,084,004 and never sought instructions from Cabinet Bonnet-Thirion as to payment of the maintenance fee due thereon.

6. As noted above, we use the service of Computer Packages Service Annuity in Rockville, Maryland for the payment of maintenance fees in the United States. For this purpose, we provide them with computer printouts relative to all US patents which they are to enter on their own computer system for payment. As regards US patent No. 5,084,004, the vital information was never entered onto the system by Cabinet Bonnet-Thirion and therefore we never sent instructions to Computer Packages Annuity Service to pay annuities on this patent or to docket it on their own computerized system. Accordingly, assuming that they did indeed receive the maintenance fee reminder on US patent No. 5,084,004, they had no way to identify that it was a patent with respect to which they were to take any action whatsoever.

And I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and

that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 28 July 2000

Signature
Mr. Olivier BARLOY

A handwritten signature in black ink, appearing to read 'O. Barloy', with a long horizontal flourish extending from the bottom of the signature.